

NOT FOR PUBLICATION

MAR 15 2006

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

YAN JUN JI,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71089

Agency No. A79-525-544

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 8, 2006**

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Yan Jun Ji, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") summary affirmance of an Immigration Judge's ("IJ") denial of his applications for asylum, withholding of removal, and for relief

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility determination, *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001) and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ’s adverse credibility determination based on an implausibility regarding whether petitioner used a false passport to enter the United States and sent the passport back to China. *See id.* at 1042-43.

Because petitioner failed to demonstrate that he was eligible for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Petitioner’s CAT claim fails for lack of exhaustion and is accordingly dismissed. *See Ortiz v. INS*, 179 F.3d 1148, 1152-53 (9th Cir. 1999).

Because petitioner failed to state how exclusion of evidence affected his case’s outcome, and thus failed to establish prejudice, we deny the petition on his due process claim. *See Cano-Merida v. INS*, 311 F.3d 960, 965 (9th Cir. 2002).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.